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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/801,890	07/27/2004	Robert James Wroten		2910

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EXAMINER

QUINN, COLLEEN M

ART UNIT

PAPER NUMBER

3634

MAIL DATE

DELIVERY MODE

03/18/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/801,890

**Applicant(s)**

WROTEN, ROBERT JAMES

**Examiner**

COLLEEN M. QUINN

**Art Unit**

3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) 1 and 2 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 3 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 August 2007 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

### DETAILED ACTION

An examination of this application reveals that applicant is unfamiliar with patent prosecution procedure. While an inventor may prosecute the application, lack of skill in this field usually acts as a liability in affording the maximum protection for the invention disclosed. Applicant is advised to secure the services of a registered patent attorney or agent to prosecute the application, since the value of a patent is largely dependent upon skilled preparation and prosecution. The Office cannot aid in selecting an attorney or agent.

A listing of registered patent attorneys and agents is available on the USPTO Internet web site <http://www.uspto.gov> in the Site Index under "Attorney and Agent Roster." Applicants may also obtain a list of registered patent attorneys and agents located in their area by writing to the Mail Stop OED, Director of the U. S. Patent and Trademark Office, PO Box 1450, Alexandria, VA 22313-1450.

However, applicant should review this action and the cited prior art to determine whether or not to continue with the application.

Also, it appears applicant may not understand what was published by the US Patent and Trademark Office (USPTO) on Feb 8, 2007 in United States Patent Application Publication number 2007/0029272 A1. This is not a patent. The USPTO now publishes applications, without regard to whether or not the application contains patentable material. Further, applicant submitted the specification, claims, and abstract of a prior application, 08/634119 which was filed on 4/17/1996 and subsequently abandoned, and which appears unrelated to the present case. Since the United States

Patent Application Publication is published without examination based on applicant's originally-filed papers, this specification, claims, and abstract of prior application 08/634119 was published as the "new" application, along with drawings of the new application, which appears unrelated to the specification, claims, and abstract of prior application, 08/634119. Applicant has a "comment" with the papers filed 3/10/2004 wherein he discusses the previous prior application, 08/634119, and applicant inquires what has happened and if he can still claim the idea. This application was abandoned, which means that a patent was not granted. The present examiner cannot comment on what ideas may or may not have been patented that are similar to the abandoned prior application, 08/634119. Applicant is advised to contact his previous attorney that handled the abandoned prior application, 08/634119 for information on that case.

Papers filed have portions that do not appear to be part of the current application. If applicant wishes to file a complaint, the USPTO has a division, the Office of Enrollment and Discipline (OED) which receives complaints about registered patent attorneys and determines if the complaints warrant investigation and/or disciplinary actions. Applicant can call the USPTO customer assistance center, **1-800-786-9199** for information on this process, but it cannot be addressed by the examiner.

In response to this action, Applicant should submit an argument under the heading "Remarks" pointing out disagreements with the examiner's contentions. Applicant must also discuss the references applied against the claims, explaining how the claims avoid the references or distinguish from them.

### Content of Specification

- (a) Title of the Invention: See 37 CFR 1.72(a) and MPEP § 606. The title of the invention should be placed at the top of the first page of the specification unless the title is provided in an application data sheet. The title of the invention should be brief but technically accurate and descriptive, preferably from two to seven words may not contain more than 500 characters.
- (b) Cross-References to Related Applications: See 37 CFR 1.78 and MPEP § 201.11.
- (c) Statement Regarding Federally Sponsored Research and Development: See MPEP § 310.
- (d) The Names Of The Parties To A Joint Research Agreement: See 37 CFR 1.71(g).
- (e) Incorporation-By-Reference Of Material Submitted On a Compact Disc: The specification is required to include an incorporation-by-reference of electronic documents that are to become part of the permanent United States Patent and Trademark Office records in the file of a patent application. See 37 CFR 1.52(e) and MPEP § 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text were permitted as electronic documents on compact discs beginning on September 8, 2000.
- (f) Background of the Invention: See MPEP § 608.01(c). The specification should set forth the Background of the Invention in two parts:
  - (1) Field of the Invention: A statement of the field of art to which the invention pertains. This statement may include a paraphrasing of the applicable U.S. patent classification definitions of the subject matter of the claimed invention. This item may also be titled "Technical Field."
  - (2) Description of the Related Art including information disclosed under 37 CFR 1.97 and 37 CFR 1.98: A description of the related art known to the applicant and including, if applicable, references to specific related art and problems involved in the prior art which are solved by the applicant's invention. This item may also be titled "Background Art."

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- (g) Brief Summary of the Invention: See MPEP § 608.01(d). A brief summary or general statement of the invention as set forth in 37 CFR 1.73. The summary is separate and distinct from the abstract and is directed toward the invention rather than the disclosure as a whole. The summary may point out the advantages of the invention or how it solves problems previously existent in the prior art (and preferably indicated in the Background of the Invention). In chemical cases it should point out in general terms the utility of the invention. If possible, the nature and gist of the invention or the inventive concept should be set forth. Objects of the invention should be treated briefly and only to the extent that they contribute to an understanding of the invention.
- (h) Brief Description of the Several Views of the Drawing(s): See MPEP § 608.01(f). A reference to and brief description of the drawing(s) as set forth in 37 CFR 1.74.
- (i) Detailed Description of the Invention: See MPEP § 608.01(g). A description of the preferred embodiment(s) of the invention as required in 37 CFR 1.71. The description should be as short and specific as is necessary to describe the invention adequately and accurately. Where elements or groups of elements, compounds, and processes, which are conventional and generally widely known in the field of the invention described and their exact nature or type is not necessary for an understanding and use of the invention by a person skilled in the art, they should not be described in detail. However, where particularly complicated subject matter is involved or where the elements, compounds, or processes may not be commonly or widely known in the field, the specification should refer to another patent or readily available publication which adequately describes the subject matter.
- (j) Claim or Claims: See 37 CFR 1.75 and MPEP § 608.01(m). The claim or claims must commence on separate sheet or electronic page (37 CFR 1.52(b)(3)). Where a claim sets forth a plurality of elements or steps, each element or step of the claim should be separated by a line indentation. There may be plural indentations to further segregate subcombinations or related steps. See 37 CFR 1.75 and MPEP § 608.01(i)-(p).
- (k) Abstract of the Disclosure: See MPEP § 608.01(f). A brief narrative of the disclosure as a whole in a single paragraph of 150 words or less commencing on a separate sheet following the claims. In an international application which has entered the national stage (37 CFR 1.491(b)), the applicant need not submit an abstract commencing on a separate sheet if an abstract was published with the international application under PCT Article 21. The abstract that appears on the cover page of the pamphlet published by the International Bureau (IB) of the World Intellectual

Property Organization (WIPO) is the abstract that will be used by the USPTO. See MPEP § 1893.03(e).

- (l) Sequence Listing. See 37 CFR 1.821-1.825 and MPEP §§ 2421-2431. The requirement for a sequence listing applies to all sequences disclosed in a given application, whether the sequences are claimed or not. See MPEP § 2421.02.

### ***Election/Restrictions***

1. Applicant's election without traverse of Group 3, claim 3, "Plastic Connections" in the reply filed on Aug 20, 2007 is acknowledged.

This application contains claims 1-2 drawn to an invention nonelected without traverse in the reply filed on Aug 20, 2007, and they are withdrawn by examiner. A complete reply to any final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claim 3 is rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph. The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited.

Additionally, claim 3 suggests that there are only two plastic connection pieces ("Plastic Connections are constructed in two separate solid pieces,") so it is unclear how just two pieces can create a storage stand with "four strong levels of storage spaces." Claim 3 also claims "durable, lightweight polyethylene" which is indefinite as what might be considered "durable" and "lightweight" to one user might not be considered "durable" or "lightweight" to another user.

The claim 3 submitted Aug 20, 2007 should have been submitted as a separate paper as required by 37 CFR 1.4(c). The paper has been entered. However, all future correspondence must comply with 37 CFR 1.4. PLEASE NOTE: A claim can only be a single sentence, and it is not clear what is a claim in the applicant's "Plastic Connection" claim page. All that is technically claimed is "Plastic Connections, which are multi-functional units for the storage of small lightweight objects. However, it appears applicant MAY be trying to also claim details of the Plastic Connector, in that there is a paragraph after the claim sentence describing the connection material and size, and



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another paragraph describing an intended use. Since applicant is a pro se (without attorney), **as best understood, claim 3 is considered:**

**--Claim 3. Plastic Connections, which are multi- functional units for the storage of small lightweight objects, said plastic connections are constructed in two separate solid pieces, one side frame measuring 61" x 24" x 1" inches long and one flat panel measuring 37" x 24 3/4 x 1" inches, said plastic connections being made of durable, lightweight polyethylene, and said plastic connections are multi-functional, such that, when multiple plastic connections are assembled, a storage stand is created with four strong levels of storage.--**

Note that the intended use would be a restrictable species, and thus is not being considered. Further, even if it were considered as part of the claim, the intended use does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

6. Claim 3 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Original claim 3 (7/27/2004) (as presented)

What I claim as my invention is "Plastic Connections" plastic frames with panels of various designs, sizes and colors for the construction of plastic storage spaces and [furnishings] for home or business.

Description: By [using] my two simple designs of the removable shelf and divider, I redesign the divider and elongated it into "frames" and redesign the "shelf" into removable "panels." The side-frames have 6" open slide-in slots on them and the panels have 12" open slots on them.

By connecting the side-frames, dividers and panels, a person can build storage spaces and [furnishings] without the use of tools. They can build strong bookshelves, children's storage boxes (three sizes), benches, (three sizes) [coffee tables], a computer desk, children's desk with bench, [end tables], [an entertainment] stand, a footstand, gardening shelves, a horizontal storage unit, small kitchen storage rack, tall linen storage tower, mechanic's tool shelf, nightstands, notions shelves, planters, a storage tower, towel tower and towel storage with [shelves], store display rack (three sizes), or tool shelves.

However, the claims, drawings, and specification (?) filed 8/20/2007 in response to the restriction requirement includes new matter, per applicant's own admission:

*Thank you for extending my patent application. Of the three drawings that I sent you, I have [chosen] "Plastic Connections" Unlike the "Removable Shelves and Dividers" "Plastic Connections" is simple and easy to assemble. With "Plastic Connections," I made some minor changes.*

*1, The dimensions for both the side-frames and the slide-in panels have •changed.*

*2, Plastic Connections is now made of lightweight and durable Polyethylene.*

*3, The side-frames now have only three open slots along one side of its frame.*

*4, The slide-in panels are now Slotless and solid.*

*Thank you*

Applicant cannot add any new matter to any part of the application. New matter is any information that was not described or shown in the application as of its filing date, 7/27/2004. In this case, the dimensions of the frames and panels, that it is made of polyethylene, the number of slots, etc. are all considered new matter. Applicant is required to cancel the new matter in response to this action. Applicant should also review the drawings and make sure no new matter is shown in the new drawings.

### ***Drawings***

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include reference numbers corresponding with reference numbers in the description. Applicant needs to have reference numbers labeling the parts of the claimed invention in the figures, and explain in the specification what each reference number is pointing to. Additionally the applicant should remove dimensions and titles (i.e. "Side Frame") and stick with just reference numbers and Figure 1, Figure 2, etc.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of

any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Specification***

The amendment filed Aug 20, 2007 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: See the description under the 112 rejection above.

Applicant is required to cancel the new matter in the reply to this Office Action.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Takahashi (US 4,153,311) in view of Kleinert (US 4,436,215) as best understood in light of the rejections advanced above.

Takahashi discloses connection pieces which form multi-functional units (Figure 2) comprising side frames and flat panels (1, 3, 6) and capable of storing lightweight objects and providing at least four levels of storage space (figure 4). Although Takahashi does not disclose specific dimensions of the connection pieces, it is taught

that the assembly can be adjusted for different spatial requirements (col.5, line 15). Additionally, MPEP 2144.04 IV. A. *Changes in Size/Proportion* explains that "mere scaling up of a prior art process capable of being scaled up, if such were the case, would not establish patentability in a claim to an old process so scaled." In this instant case, changing the dimensions of Takahashi would merely be design choice of the user and would not establish patentability.

Takahashi does not disclose the material of the connection pieces to be plastic, and specifically polyethylene. However, Kleinert et al. teach connection pieces comprising side frames (14,15) and flat panels (22) for assembling a multi-functional storage unit made of lightweight, durable polyethylene (col.3 line 65- col.4, line 4), providing a storage unit tat is durable and will not rust or chip paint.

Therefore, it would have been obvious to one ordinary skill in the art to make the connections of Takahashi out of a polyethylene plastic, as taught by Kleinert et al. in order to provide a durable storage unit that will not rust or chip paint.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pauly, Jr. (US 4,77,574), in view of Bitel (US 4,577,773) as best understood in light of the 35 USC 112 second paragraph rejections advanced above.

Pauly, Jr. discloses connection pieces which form multi-functional units (Figure 1) comprising side frames and flat panels (1, 7) and capable of storing lightweight objects and providing at least four levels of storage space (figure 4). Although Pauly, Jr. does

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not disclose specific dimensions of the connection pieces, the MPEP 2144.04 IV. A. *Changes in Size/Proportion* explains that "mere scaling up of a prior art process capable of being scaled up, if such were the case, would not establish patentability in a claim to an old process so scaled." In this instant case, changing the dimensions of Pauly, Jr. would merely be design choice of the user and would not establish patentability.

Pauly, Jr. does not disclose the material of the connection pieces to be plastic, and specifically polyethylene. However, Bitel teaches connection pieces comprising side frames (20,22) and flat panels (12) for assembling a multi-functional storage unit made of lightweight, durable polyethylene (col.3 lines 9-16), providing a storage unit constructed from a well known resilient material.

Therefore, it would have been obvious to one ordinary skill in the art to make the connections of Pauly, Jr. out of a polyethylene plastic, as taught by Bitel in order to provide a durable storage unit that is made of a readily available resilient material.

**Note:** Examiner has examined the claims as best understood, and has examined the matter that examiner believes is new matter in the event that the applicant can document that the new matter limitations were in the original application and thus are not new matter. If this is not the case, applicant should cancel the new matter. The fact that examiner has addressed these features does not obviate the new matter rejection.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to COLLEEN M. QUINN whose telephone number is (571)272-6289. The examiner can normally be reached on 8:30AM-5:00PM Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Mitchell can be reached on (571) 272-7069. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Katherine W Mitchell/  
Supervisory Patent Examiner, Art  
Unit 3634

/C. M. Q./  
Examiner, Art Unit 3634  
3/11/08

